

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Meng Huang,

Plaintiff,

v.

The Ohio State University and Giorgio Rizzoni,

Defendants.

Case No: 2:19-cv-1976

Judge Graham

Magistrate Judge Vascura

ORDER

This matter is before the Court on Plaintiff's motion to stay taxation of costs pending appeal. Defendants oppose the motion.

Following a trial on Plaintiff's claims against Defendant Giorgio Rizzoni, the jury returned a verdict for Defendant. The Court entered a Final Judgment in favor of Defendant Giorgio Rizzoni and Defendant Ohio State University, to whom the Court had previously granted summary judgment. Defendants then filed a Bill of Costs, seeking to tax \$14,318.67 in deposition costs.

Upon filing a notice of appeal, Plaintiff moved to stay taxation of costs pending appeal. Plaintiff argues that it would be logical to wait for the outcome on appeal before the Court taxes costs. Further, Plaintiff contends that her ability to pay costs is plain from the record, which established that she is a talented and gainfully employed engineer with a Ph.D. from Ohio State.

Defendants respond that costs, by rule, are allowed to the prevailing party. *See* Fed. R. Civ. P. 54(d)(1). They argue that a stay of taxation should be rejected because Plaintiff has not agreed to post a supersedeas bond.

Under Local Rule 54.1, it is the role of the Clerk of Court to tax costs. *See* S.D. Ohio Civ. R. 54.1. Once the Clerk has made its determination of costs, a party may move the Court to review the Clerk's determination or to stay the matter. *See* Fed. R. Civ. P. 54(d)(a); *Goldblum v. Univ. of Cincinnati*, No. 1:19-cv-398, 2023 WL 2019356, at *1 (S.D. Ohio Feb. 15, 2023).

The Court finds that Plaintiff's motion to stay taxation is premature. Here, Plaintiff moved to stay before the Clerk had an opportunity to consider the Bill of Costs and make a

determination of costs. The Court further notes that Local Rule 54.1 provides, “The Clerk may defer taxation of costs pending appeal.” S.D. Ohio Civ. R. 54.1. Thus, the Clerk could defer taxation pending appeal. *See Goldblum*, 2023 WL 2019356, at **1–2 (holding that plaintiff’s motion to stay taxation of costs was premature because “the Clerk has not yet considered Defendant’s Bill of Costs or taxed it against Plaintiff”).

Accordingly, Plaintiff’s motion to stay taxation of costs pending appeal (Doc. 212) is DENIED as premature. The Court hereby reinstates the Clerk’s briefing schedule and orders that Plaintiff’s response to the Bill of Costs is due June 19, 2023 and Defendants’ reply is due June 30, 2023.

DATE: June 9, 2023

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge